

ATTACHMENT

(SETTLEMENT AGREEMENT)

**BEFORE THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF CALIFORNIA**

Investigation Into the Reasonableness of
Expenses Related to the Out-of-service
Status of PACIFIC GAS AND ELECTRIC
COMPANY'S El Dorado Hydroelectric
Project and the Need to Reduce Electric
Rates Related to this Non-functioning
Electric Generating Facility

Investigation 97-11-026

(U 39 M)

**SETTLEMENT AGREEMENT AMONG
PACIFIC GAS AND ELECTRIC COMPANY AND THE
OFFICE OF RATEPAYER ADVOCATES
RESOLVING ALL ISSUES IN THE
EL DORADO ORDER INSTITUTING INVESTIGATION
(INVESTIGATION NO. 97-11-026)**

In accordance with Article 13.5 of the California Public Utilities Commission's ("Commission") Rules of Practice and Procedure, the Office of Ratepayer Advocates ("ORA") and Pacific Gas and Electric Company ("PG&E") (together the "Settling Parties"), by and through their undersigned representatives, enter into this Settlement Agreement resolving all issues in the El Dorado Order Instituting Investigation (OII), I. 97-11-026. As a compromise among their respective litigation positions in I. 97-11-026, PG&E and ORA agree to and support all of the terms of this Settlement Agreement.

I. THE OII PROCEEDING

The Commission issued an OII on PG&E's El Dorado hydroelectric project (the Project) on November 19, 1997, after PG&E had notified the Commission that the Project had been out-of-service for nine consecutive months as a result of damage to the Project from the January 1997 New Year's Storm. In accordance with the provisions of Public

Utilities Code Section 455.5(c), the OII was consolidated with PG&E's 1999 test year General Rate Case (GRC), Application 97-12-020. Hearings and testimony on the OII were deferred pending resolution of PG&E's Application 98-04-016, wherein PG&E sought permission, pursuant to Section 851 of the Public Utilities Code, to sell the Project to the El Dorado Irrigation District (EID). Some OII issues were expected to be resolved with a decision on PG&E's proposed sale of the project. On September 16, 1999, the Commission issued Decision 99-09-066, authorizing the sale.

On February 25, 2000, the Commission issued Decision 00-02-046 in PG&E's 1999 test year General Rate Case. The discussion on page 479 of that decision, as modified by the Administrative Law Judge's Ruling dated March 7, 2000, required PG&E to submit a prehearing statement addressing issues raised in the OII. PG&E filed its prehearing conference statement on March 16, 2000, and ORA filed its prehearing conference statement on March 22, 2000. Upon review of the prehearing conference statements, the Administrative Law Judge ordered PG&E to file additional testimony on the OII issues on April 28, 2000.

PG&E's testimony recommended that there be no adjustment made to PG&E's authorized revenue requirement as a result of the OII. In the alternative, PG&E's testimony estimated that a maximum capital-related revenue requirement of \$375,000 could be subject to refund. On July 11, 2000, ORA served its testimony, which recommended that ratepayers be refunded \$738,000 for the capital-related revenue requirement and \$693,000 for expense-related revenue requirement, plus interest and associated tax benefits .

II. THE SETTLEMENT

The two active parties entered into settlement discussions to try to resolve their differences. This settlement is the result of those discussions. The settlement consists of the following agreements by the Settling Parties:

1. The reasonable total adjustment to electric rates resulting from this OII is \$810,000, plus associated interest, to be credited to the Revenue Section of the Transition Cost Balancing Account on a one-time basis upon adoption of this Settlement Agreement.
2. The Settling Parties agree that the Commission should find that it is reasonable for PG&E to credit the TCBA for \$810,000 plus interest as a result of this investigation. Interest will accrue at the 90-day commercial paper rate, calculated on a principal balance of \$510,000 beginning January 1, 1998 through December 31, 1999, and on the principal balance of \$810,000 from January 1, 2000 through the date the amount is credited to the Transition Cost Balancing Account. Although compromises were reached on several issues, the final settlement amount cannot be tied to specific outcomes for individual issues.
3. The one-time TCBA credit will be made upon the Commission's adoption of this settlement agreement.

II. RESERVATIONS

1. The Settling Parties agree that this Settlement represents a compromise of their respective litigation positions. It does not represent the Settling Parties' endorsement of, or agreement with, any or all of the recommendations made by the other party.

2. The Settling Parties shall by joint motion request Commission approval of this Settlement. The Settling Parties additionally agree to actively support prompt approval of the Settlement. Active support shall include necessary reply comments, comments on a proposed decision, written and oral testimony, if required, appearances, and other means to obtain the approvals sought. The Settling Parties further agree to participate jointly in necessary briefings to Commissioners and their advisors regarding the Settlement and the issues compromised and resolved by it.

3. This Settlement embodies the entire understanding and agreement of the Settling Parties with respect to the matters described herein, and, except as described herein, supersedes and cancels any and all prior oral or written agreements, principles, negotiations, statements, representations or understandings among the Settling Parties.

4. The Settlement may be amended or changed only by a written agreement signed by the Settling Parties.

5. The Settling Parties have bargained earnestly and in good faith to achieve this Settlement. The Settling Parties intend the Settlement to be interpreted and treated as a unified, interrelated agreement. The Settling Parties therefore agree that if the Commission fails to approve the Settlement as reasonable and adopt it unconditionally and without modification, including the findings and determinations requested herein, any Settling Party may in its sole discretion elect to terminate the Settlement. The Settling Parties further agree that any material change to the Settlement shall give each Settling Party in its sole discretion the option to terminate the Settlement. In the event the Settlement is terminated, the Settling Parties will request that the unresolved issues in OII 97-11-026 be heard at the earliest convenient time.

6. This Settlement represents a compromise of the Settling Parties' respective litigation positions and should not be considered precedent with respect to the out-of-service status of major facilities for PG&E or other utilities in any future proceeding. The Settling Parties have assented to the terms of this Settlement Agreement only for the purpose of arriving at the various compromises embodied herein. Each Settling Party expressly reserves its right to advocate, in current and future proceedings, positions, principles, assumptions, arguments and methodologies that may be different from those underlying this Settlement.

7. The Settling Parties agree that no signatory to this Settlement, nor any member of the staff of the Commission, assumes any personal liability as a result of the Settlement Agreement.

8. Each of the Settling Parties hereto and their respective counsel have contributed to the preparation of this Settlement. Accordingly, the Settling Parties agree that no provision of this Settlement shall be construed against any Settling Party because that party or its counsel drafted the provision.


9. It is understood and agreed that no failure or delay by any Settling Party hereto in exercising any right, power or privilege hereunder shall operate as a waiver hereof, nor shall any single or partial exercise thereof preclude any other or future exercise thereof or the exercise of any other right, power or privilege.

10. This document may be executed in counterparts, each of which shall be deemed an original, but all of which together shall constitute one and the same instrument.

11. This Settlement shall become effective among the Settling Parties on the date the last Settling Party executes the Settlement as indicated below.


In witness whereof, intending to be legally bound, the Settling Parties hereto have duly executed this Settlement Agreement on behalf of the parties they represent.

OFFICE OF RATEPAYER
ADVOCATES



Jonathan Bromson
Attorney

PACIFIC GAS AND ELECTRIC
COMPANY



Robert B. McLennan
Attorney

Dated: September 26, 2000

(END OF ATTACHMENT)